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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,205	10/31/2003	Frank Forrest Humbles		9994
7590 Michael E. Mauney Attorney at Law P. O. Box 10266 Southport, NC 28461				
EXAMINER				
MAYO-PINNOCK, TARA LEIGH				
ART UNIT		PAPER NUMBER		
3671				
MAIL DATE		DELIVERY MODE		
04/13/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/698,205

Applicant(s)

HUMBLES, FRANK FORREST

Examiner

TARA MAYO-PINNOCK

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(c) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 15 March 2010 has been entered.

Claim Objections

2. Claims 1, 7 and 10 are objected to because of the following informalities: grammatical errors and inaccurate claim language.

In claim 1, section c at line 5, delete the period and insert appropriate punctuation therefor.

In claim 7, section c at line 5, delete the period and insert appropriate punctuation therefor.

In claim 10 at line 2, change "further comprises" to --comprises--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3 through 6, 8 through 10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "soft" in section b of claim 1 is a relative term which renders the claim indefinite. The term "soft" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "easily" in claim 3 is a relative term that renders the claim indefinite. The term "easily" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Claim 3 is similarly rejected for the recitation of "quickly." Claim 10 is similarly rejected for the recitation of "quickly."

With regard to claim 3, the scope of the claimed invention is rendered indefinite by the recitation of "hook-and-loop VelcroTM-like tape attachment" on lines 5 through 6. Specifically, VELCRO is a trademark and has no fixed and definite meaning. Therefore, its use in the body of a claim renders the claim indefinite. Additionally, "-like" renders the scope of the claimed invention because it is unclear what structure is encompassed by the term. For the purpose of prosecution on the merits, the examiner has interpreted the phrase to mean --hook and loop tape attachment--. Claim 10 is similarly rejected and treated for the same recitation on line 3.

With regard to claim 8, the scope of the claimed invention is indefinite because the claim language is unclear. Specifically, it is unclear how the sizing of the central pad relates to the arm sections. For the purpose of prosecution on the merits, the examiner has interpreted the claim to read --...wherein said central one-piece foam pad is shaped such that it includes a plurality of said arm sections.--.

The scope of claim 12 is indefinite because the claim depends from a canceled claim. Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 3 through 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinci (U.S. Patent No. 5,542,121 A) in view of Gabriele et al. (U.S. Patent No. 4,030,719 A) and Tari (U.S. Patent No. 4,662,366 A).

Vinci '121, as best seen in Figures 6 and 7, shows an arm protection apparatus for positioning a patient's arms (11) when in a prone or supine position on a patient support comprising:

with regard to claims 1 and 7,

(a) a one-piece pad with a central portion (11) positionable under the patient's body;

(d) on said one-piece pad, a right arm lower section positionable around a lower right arm of a patient including means for attaching said right arm lower section to said central portion of said one-piece pad so that said right arm lower section is folded around a patient's lower arm; and

(e) on said one-piece pad, a left arm lower section positionable around a lower left arm of a patient including means for attaching said left arm lower section to said central portion of said one-piece pad so that said left arm lower section is folded around a patient's lower left arm;

with regard to claims 3 and 10,

wherein said right and left means for are hook and loop fasteners (Claim 2); and
with regard to claims 4 and 9,

wherein said one-piece pad is radiolucent (col. 5, lines 33 through 37).

Vinci '121 fails to teach:

with regard to claims 1 and 7,

the one-piece pad being a foam pad;

upper right and upper left arm sections; and

a portion in one of the arm sections for exposure of a patient's arms;

with regard to claim 5,

the one-piece pad being generally H-shaped; and

with regard to claim 6,

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the general H-shape having a width approximately equal to the length of a patient's torso.

Gabriele et al. '719 disclose a restraining device for immobilizing patients during radiological examination, the device including restraints comprising straps made of fabric having foam attached to one surface (Claim4; and col. 3, lines 40 through 47).

Tari '366, as seen in Figures 1 through 4, shows an arm support (10) for a patient's arms comprising left and right upper and lower assemblies (30 and 32) positionable about the upper and lower sections (18 and 22) of an arm of a patient (14), the upper and lower assemblies configured to immobilize the entire arm of a patient (col. 3, lines 62 through 67), wherein each of the upper and lower sections includes means for attaching (45 and 46); wherein a portion of the support is cut out for exposure of a patient's arms.

With regard to claims 1 and 7, it would have been obvious to one having ordinary skill in the art of patient supports at the time the invention was made to make the one-piece pad of Vinci '121 a foam pad as taught by Gabriele et al. '719 to increase the comfort of the pad. Specifically, one having ordinary skill in the art would have had a reasonable expectation of success, since the modification would have merely required the addition of a known element for its intended purpose of restraining a patient.

With regard to claims 1, 5 and 7, it would have been obvious to one having ordinary skill in the art of patient supports at the time the invention was made to modify the one-piece pad disclosed by Vinci '121 such that the right and left arm sections would

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each include upper and lower sections as taught by Tari '366 to provide support for both the upper and lower sections of a patient's arms. Specifically, one having ordinary skill in the art would have had a reasonable expectation of success, since the modification would have merely required the duplication of parts in a known manner.

With regard to claim 6, a one-piece pad having a width approximately equal to the length of a patient's torso is inherent to the device taught by the combination of Vinci '121, Gabriele et al. '719 and Tari '366.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARA MAYO-PINNOCK whose telephone number is (571) 272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TARA MAYO-PINNOCK/
Primary Examiner, Art Unit 3671

tmp
11 April 2010